

IN THE CIRCUIT COURT, FOURTH  
JUDICIAL CIRCUIT, IN AND FOR  
DUVAL COUNTY, FLORIDA

CASE NO.: 16-2019-CA-006561-XXXX-MA  
DIVISION: CV-G

THE SCHOOL BOARD OF DUVAL  
COUNTY, FLORIDA, and  
DUVAL TEACHERS UNITED,

Plaintiffs,

v.

CITY OF JACKSONVILLE,

Defendant.

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**PLAINTIFF'S NOTICE OF ATTORNEY GENERAL'S  
DECISION TO DECLINE TO ISSUE AN OPINION  
ADDRESSING MATTERS AT ISSUE IN THIS CASE**

At the October 21, 2019, hearing in this matter, the Court specifically asked counsel for the City the status of the City's request for an Attorney General Opinion on the issues before the Court. Today, upon request of Mr. Cox, the Attorney General provided a copy of the attached letter, dated November 4, 2019, which notified the City's general counsel—a month ago—that she would not issue a formal opinion addressing whether Jacksonville's City Council has discretion to refuse to place a school capital surtax passed by the School Board on the ballot. The letter is attached as Exhibit A.

Under Section 7.02 of the Charter, a general counsel's legal opinion can be "overruled or modified by a court of competent jurisdiction or an opinion of the Attorney General of the State of Florida." The City Council, with the advice of the general counsel, sought an opinion from the Attorney General. The Attorney General's decision to decline to issue an opinion on this matter leaves this Court—"a court of competent jurisdiction"—as the only avenue of review.

DATED: DECEMBER 4, 2019

By: /s/ Scott S. Cairns

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been served via electronic mail on December 4, 2019 on the following:

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# EXHIBIT A



**ASHLEY MOODY**  
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November 4, 2019

Jason R. Gabriel  
General Counsel  
City Hall, St. James Building  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202

Dear Mr. Gabriel:

Thank you for your August 14, 2019 letter on behalf of the Consolidated City of Jacksonville requesting an Attorney General Opinion regarding several questions arising under section 16.01(3), Florida Statutes. You ask for a formal opinion addressing the City Council's authority to act with respect to the Duval County School Board's request for a sales tax referendum, as set forth in section 212.055(6), Florida Statutes. Attorney General Moody has asked me to respond to your letter.

The Office of the Attorney General is aware of pending litigation regarding this matter. For that reason, this does not appear to be a matter upon which the office will comment.

Specifically, it appears that a number of parents have filed an emergency petition for writs of quo warranto and mandamus in the Fourth Judicial Circuit "challenging the authority of the Consolidated City of Jacksonville...to withdraw Bill 2019-0380, which called for a special election to hold a referendum for the approval of a half-cent school capital outlay sales tax...and mandating that Defendant take action to place the referendum on the ballot for its consideration by voters in the Consolidated City of Jacksonville."<sup>1</sup> Additionally, an Emergency Complaint for Declaratory Judgment, a Writ of Quo Warranto, and Ancillary Injunctive Relief related to the same matter has been filed by the School Board of Duval County, Florida, and Duval Teachers United.<sup>2</sup>

Our Statement of Policy provides, in part: "In order not to intrude upon the constitutional prerogative of the judicial branch, opinions generally are not rendered on questions pending

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<sup>1</sup> See *Barnum v. Consolidated City of Jacksonville*, Case No: 2019-CA-005658, Fourth Judicial Circuit Court, Duval County (Sept. 16, 2019).

<sup>2</sup> See *School Board of Duval County, Florida, and Duval Teachers United v. City of Jacksonville*, Case No: 16-2019-CA-006561, Fourth Judicial Circuit Court, Duval County (Sept. 17, 2019).

before the courts[.]”<sup>3</sup> Under these circumstances, this office will not comment on the issues you have raised. I therefore regret that this office could not be of more direct assistance to you in this matter.

Sincerely,



Teresa L. Mussetto  
Senior Assistant Attorney General

TM/tkp

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<sup>3</sup> See Frequently Asked Questions About Attorney General Opinions, IV. When Opinions Will Not Be Issued (<http://myfloridalegal.com/pages.nsf/Main/dd177569f8fb0f1a85256cc6007b70ad>).